

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH**

ORIGINAL APPLICATION NO.170/00619/2017

DATED THIS THE 06TH DAY OF DECEMBER, 2018

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI C V SANKAR, MEMBER (A)

M. Onkarappa
S/o Late Mallappa Shetty,
Aged 60 years,
Ex-GDS BPM/DP, Anegere BO,
(Now removed from service),
Residing at Anegere Post,
Panchanahalli Hobli,
Kadur Taluk,
Chikkamagaluru District – 577 182

.....Applicant

(By Advocate Shri A.R. Holla)

Vs.

1. Union of India,
By Secretary,
Department of Posts,
Dak Bhavan,
New Delhi – 110 001

2. The Postmaster General,
South Karnataka Region,
Bengaluru – 560 001

3. The Superintendent of Post Offices,
Chikkamagaluru Division,
Chikkamagaluru – 577 101

.....Respondents

(By Shri N. Amaresh, Counsel for the Respondents)

ORDER (ORAL)DR. K.B. SURESH, MEMBER (J):

Heard. The English translation of Annexure-R1 and R2 was made available to us and apparently found correct. We quote from it:

Annexure-R1

"Letter dated 23.05.2014 of Sri.M.Onkarappa.

The said letter is addressed to The SPM, Panchanahalli SO-577 182.

Sub: Utilization of eMO money of Rs.14,000, for personal needs and regarding crediting the amount to the department.

I, Sri.M Onkarappa, as mentioned above, used the amount of Money orders received at my Branch Office from State Government Social Security Schemes such as Widow Pension, Physical handicapped pension, Sandhya Suraksha Pension, without paying them to the beneficiaries. I have utilized amount of about 28 persons for Rs.14000/- (Fourteen thousand only) and utilized the amount for my children education. I am crediting the amount of Rs.14000/- this day to the department. I request to take the same to department accounts and issue receipt for the same.

Place: Annegere

Date: 23.5.2014

The said letter was enclosed with UCR Rpt No.A 81 dated 23.5.2014 of Panchanahalli SO for Rs.14000/- with description of Alleged eMO fraud. The said letter was endorsed by SPM, Panchanahalli vide No.PCH/Misc/Dlgs dated 23.5.2014, to Inspector Posts, Birur Sub division

The said letter was then forwarded to Supdt of Post Offices, Chikkamagalur vide endt No.G/Anegere/Dlgs dated 23-05-2014.

Annexure-R2

2. Letter dated 24-05-2014 of Sri.M.Onkarappa.

The said letter is addressed to The SPM, Panchanahalli SO-577 182.

Sub: Utilization of eMO money of Rs.27000, for personal needs and regarding crediting the amount to the department .

I, Sri M.Onkarappa, as mentioned above, used the amount of Money orders received at Annegere Branch Office during Feb-14, March-14, April-14, May-14, have utilized eMO amount of about 54 Persons by signing the eMOs and utilized the amount for my personal needs. I am crediting the said amount on this day i.e., on 24-05-2014 to the department. I request to take the same to deptl A/cs and issue receipt for the same.

Place: Annegere.

Date: 24-05-2014.

The said letter was enclosed with UCR Rpt No.A 82 dated 24-05-2014 of Panchanahalli SO for Rs. 27,000/- with description of Alleged eMO fraud.

The said letter was endorsed by SPM, Panchanahalli vide No. PCH/Misc/Dlgs dated 24.05.2014, to Inspector Posts, Birur Sub Division.

The said letter was then forwarded to Supdt of Post Offices, Chikkamagalur vide endt No.F/Anegere/Dlgs dated 24-05-2014.”

2. The question raised by the learned counsel for the applicant seems to be that even though it may not lie explicitly in it, Annexure-R1 and R2 are the creations of coercion as otherwise a person in the position of applicant would not pay such an amount. The respondents counter it by saying that there is no element of coercion made out as coercion has to be specifically alleged and proven if it is to be taken as a vitiating factor vitiating a procedure adopted. Such a pleading is apparently not available in the OA, therefore, we may have to conclude that Annexure-R1 and R2 are voluntary and therefore non-justiciable anymore.

3. Relating to the money orders, there is no dispute that the 4 money orders involved in the charge has been properly accounted for by the applicant himself as misused by himself. We find that proper opportunities have been granted and natural justice seems to be satisfied and the infraction and the punishment imposed go hand in hand taken even singly to cumulatively it is more so. Therefore, there is no merit in the OA.

4. The OA is dismissed. No order as to costs.

(C V SANKAR)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No.170/00619/2017

Annexure-A1: Copy of the memo dated 28.07.2015
Annexure-A2: Copy of the order dated 26.08.2015
Annexure-A3: Copy of the inquiry proceedings dated 30.09.2015
Annexure-A4: Copy of the Inquiry Report dated 01.10.2015
Annexure-A5: Copy of the order dated 17.11.2015
Annexure-A6: Copy of the applicant's revision petition dated 19.10.2016
Annexure-A7: Copy of the order dated 06.02.2017

Annexures with reply statement

Annexure-R1: Copy of the letter dated 23.05.2014
Annexure-R2: Copy of the letter dated 24.05.2014
Annexure-R3: Copy of the statement of the applicant dated 01.07.2014
Annexure-R4: Copy of the statement of the applicant dated 03.07.2014
Annexure-R5: Copy of the statement of the applicant dated 05.07.2014
Annexure-R6: Copy of the statement of the applicant dated 16.07.2014
Annexure-R7: Copy of the statement of the applicant dated 24.06.2015
Annexure-R8: Copy of the statement of claim application in respect of money orders – Shri Marulaiah

Annexure-R9: Copy of the statement of claim application in respect of money orders – Shri Basappa

Annexure-R10: Copy of the statement of claim application in respect of money orders – Smt Sarojamma

Annexure-R11: Copy of the statement of claim application in respect of money orders – Shri Boothabovi

Annexure-R12: Copy of the letter dated 08.06.2015

Annexure-R13: Copy of the written statement of defence dated 05.08.2015

Annexure-R14: Copy of the representation dated 30.09.2015

Annexure-R15: Copy of the representation dated 08.10.2015

Annexure-R16: Copy of the statement of Shri Basappa dated 24.06.2015

Annexure-R17: Copy of the statement of Shri Marulaiah dated 24.06.2015

Annexure-R18: Copy of the statement of Shri Bhootabhovi dated 03.07.2014

Annexure-R19: Copy of the statement of Smt Sarojamma dated 24.06.2015
